

RESEARCH APPENDIX

Date Transfer Requested: 11/30/2018 (Per: CMH)

☞ **Appendix H ... has been added to the 2017 LRB-6073**

Appendix A ☞ LRB 17-6001

Appendix B ☞ LRB 17-6004

Appendix C ☞ LRB 17-6039

Appendix D ☞ LRB 17-6040

Appendix E ☞ LRB 17-6041

Appendix F ☞ LRB 17-6042

Appendix G ☞ LRB 17-6043

Appendix H ☞ LRB 17-6058

2017 DRAFTING REQUEST

Bill

For: **Robin Vos (608) 266-9171** Drafter: **mduchek**
 By: **Abby** Secondary Drafters:
 Date: **11/26/2018** May Contact:
 Same as LRB:

Submit via email: **YES**
 Requester's email: **Rep.Vos@legis.wisconsin.gov**
 Carbon copy (CC) to: **michael.duchek@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

UI work search requirements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek 11/26/2018	kfollett 11/26/2018			
/P1	mduchek 11/27/2018	kfollett 11/27/2018	jmurphy 11/26/2018		State
/P2	mduchek 11/28/2018	kfollett 11/28/2018	dwalker 11/27/2018		State
/P3	mduchek 11/29/2018	kfollett 11/29/2018	lparisi 11/28/2018		State
/P4			lparisi		State

LRB-6058

Vers.

Drafted

Reviewed

Submitted
11/29/2018

Jacketed

Required

FE Sent For:

<END>

Duchek, Michael

From: Duchek, Michael
Sent: Tuesday, November 20, 2018 4:26 PM
To: Fawcett, Steve; Fabick, Abbey
Cc: McGreevy, Mary Alice
Subject: UI work search

Hey guys,

I was told of a potential request on UI/work search. Here is some info. that might help:

1. Generally in order to get UI benefits, a claimant has to perform at least 4 work search actions per week. This 4 work search actions requirement is in statute at s. 108.04(2)(a)3. (Previously, the statute required 2 actions per week, but it was changed to "at least 4" (or more in some cases) in the 2013 budget act.) As far as what constitutes a permissible work search action, this is, pursuant to the statute, determined by DWD by rule (see s. DWD 127.01(1) in the Admin. Code).
2. We have also had a separate issue the last few years of work search *waivers* following a DWD rule change that cut down on the availability of work search waivers. If a claimant has a waiver, then the requirement described in #1 does not apply. Previously, people were able to in some cases get what would essentially be a complete waiver of the work search requirements for their entire benefit year if they were expected to be hired back at some point, but the rule changed it so that a claimant can only get an 8-week waiver (+ a 4 week extension). That change took effect I think in 2015 some time (see [https://docs.legis.wisconsin.gov/code/misc/chr/lrb filed/cr 13 081 final rule filed with lrb.pdf](https://docs.legis.wisconsin.gov/code/misc/chr/lrb%20filed/cr%2013%20081%20final%20rule%20filed%20with%20lrb.pdf)). A bill was proposed to basically push this back up, to a maximum of 26 weeks (2017 AB 131/SB 83), but the bill obviously did not pass. In addition, DWD was apparently told by the US DOL that even a 26-week waiver as contemplated in those bills would not be considered compliant with federal law, though we could potentially go higher than the 8/+4 framework in the current rule.

So I'm not sure which of these you were referring to and whether you think you need anything drafted, but hope that helps. As always, it's recommended that any UI law change be run by DWD at some point if possible to confirm it doesn't raise federal conformity issues, though obviously anything that is consistent with current statutes and rules is unlikely to pose a problem. Happy to chat on the phone tomorrow.

Mike Duchek
Senior Legislative Attorney
Wisconsin Legislative Reference Bureau
(608) 504-5830

11/26/18 - Call from Abby in Vos office - codify
8/4 week work search waiver framework



State of Wisconsin
2017 - 2018 LEGISLATURE

In 11-26-18
TODAY

-6058/P1

LRB-1408/H

AM:am

2017 SENATE BILL 83

MED

March 2, 2017 - Introduced by Senators BEWLEY, ERPENBACH, HANSEN, JOHNSON, RINGHAND, RISSER and VINEHOUT, cosponsored by Representatives HESSELBEIN, POPE, BILLINGS, BERCEAU, BOWEN, CONSIDINE, GOYKE, MILROY, OHNSTAD, SARGENT, SPREITZER, SUBECK and C. TAYLOR. Referred to Committee on Workforce Development, Military Affairs and Senior Issues.

and requiring the exercise of
rule-making authority

- 1 AN ACT to amend 108.04 (2) (a) 3. (intro.) of the statutes; relating to: an
2 exemption from work search requirements for certain individuals claiming
3 unemployment insurance benefits.

Analysis by the Legislative Reference Bureau

This bill provides that a claimant for unemployment insurance benefits who reasonably expects to be reemployed by the claimant's former employer within 26 weeks is exempt from the eligibility requirement of conducting weekly searches for suitable work.

Under current law, a claimant is generally required to conduct searches for work each week to be eligible for unemployment benefits. Current law provides that a claimant who is laid off is exempt from the work search requirement if the claimant reasonably expects to be reemployed by the former employer and the Department of Workforce Development verifies that expectation. DWD may grant a claimant a waiver of the work search requirement under certain conditions. Administrative rules promulgated by DWD require DWD to grant a claimant a waiver of the work search requirement for eight weeks if the claimant reasonably expects to be reemployed with the claimant's employer within that period. The rules permit DWD to provide an additional four-week extension of that waiver. The rules also provide additional reasons a claimant may qualify for a waiver.

This bill modifies current law to specifically provide that a claimant is exempt from the work search requirement for up to 26 weeks after the week the claimant was laid off if the claimant reasonably expects to be reemployed within that 26-week period.

It codifies the current framework for work search waivers for claimants who are laid off and have a reasonable expectation of being reemployed within an eight-week period, subject to a four-week extension.

SENATE BILL 83

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

insert

SECTION 1. 108.04 (2) (a) 3. (intro.) of the statutes is amended to read:

108.04 (2) (a) 3. (intro.) The individual conducts a reasonable search for suitable work during that week, unless the search requirement is waived under par. (b) or s. 108.062 (10m). The search for suitable work must include at least 4 actions per week that constitute a reasonable search as prescribed by rule of the department. In addition, the department may, by rule, require an individual to take more than 4 reasonable work search actions in any week. The department shall require a uniform number of reasonable work search actions for similar types of claimants. ~~This subdivision does not apply to an individual if~~ If the department determines that the an individual is currently laid off from employment with an employer but there is a reasonable expectation of reemployment of the individual by that employer within 26 weeks after the week the individual was laid off, this subdivision does not apply to that individual with respect to that 26-week period. In determining whether the individual has a reasonable expectation of reemployment by an employer, the department shall request the employer to verify the individual's employment status and shall also consider other factors, including:

SECTION 2. Initial applicability.

(1) This act first applies to weeks of unemployment beginning on the effective date of this subsection.

SECTION 3. Effective date.

The treatment of s. 108.04 (2) (a) 3. (intro.) and a. to c. and (b)

SENATE BILL 83

SECTION 3

1

(1) This act takes effect on the first Sunday after publication.

2

(END)

The Treat

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-6058/P1ins
MED:...

INSERT

1 **SECTION 1.** 108.04 (2) (a) 3. (intro.) of the statutes is renumbered 108.04 (2) (a)
2 3. and amended to read:

3 108.04 (2) (a) 3. (intro.) The individual conducts a reasonable search for
4 suitable work during that week, unless the search requirement is waived under par.
5 (b) or s. 108.062 (10m). The search for suitable work must include at least 4 actions
6 per week that constitute a reasonable search as prescribed by rule of the department.
7 In addition, the department may, by rule, require an individual to take more than
8 4 reasonable work search actions in any week. The department shall require a
9 uniform number of reasonable work search actions for similar types of claimants.
10 ~~This subdivision does not apply to an individual if the department determines that~~
11 ~~the individual is currently laid off from employment with an employer but there is~~
12 ~~a reasonable expectation of reemployment of the individual by that employer. In~~
13 ~~determining whether the individual has a reasonable expectation of reemployment~~
14 ~~by an employer, the department shall request the employer to verify the individual's~~
15 ~~employment status and shall also consider other factors, including:~~

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236; 2013 a. 11, 20, 36; 2013 a. 173 ss. 13, 33; 2013 a. 276; 2015 a. 55, 86, 195; 2015 a. 197 s. 51; 2015 a. 334; 2017 a. 157; 2017 a. 364 s. 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also chs. DWD 132 and 133, Wis. adm. code.

16 **SECTION 2.** 108.04 (2) (a) 3. a. to c. of the statutes are renumbered 108.04 (2)
17 (b) 1. to 3. and amended to read:
18 108.04 (2) (b) 1. The history of layoffs and reemployments by the employer;
19 2. Any information that the employer furnished to the individual or the
20 department concerning the individual's anticipated reemployment date; and
21 3. Whether the individual has recall rights with the employer under the terms
22 of any applicable collective bargaining agreement; and.

renumbered 108.04 (2) (b)
(intro.)

SECTION 3. 108.04 (2) (b) of the statutes is amended to read:

108.04 (2) (b) The department shall prescribe the requirements for registration for work and search for work shall be prescribed by rule of the department, and the. The department may, by general rule, waive these those requirements under certain stated conditions, except that the department shall, by rule, waive those requirements if the department determines that the individual is currently laid off from employment with an employer but there is a reasonable expectation of reemployment of the individual by that employer within a period of 8 weeks, which may be extended up to an additional 4 weeks but not to exceed a total of 12 weeks. In determining whether the individual has a reasonable expectation of reemployment by an employer, the department shall request the employer to verify the individual's employment status and shall also consider other factors, including all of the following:

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236; 2013 a. 11, 20, 36; 2013 a. 173 ss. 13, 33; 2013 a. 276; 2015 a. 55, 86, 195; 2015 a. 197 s. 51; 2015 a. 334; 2017 a. 157; 2017 a. 364 s. 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also chs. DWD 132 and 133, Wis. adm. code.

Duchek, Michael

From: Fabick, Abbey
Sent: Tuesday, November 27, 2018 8:48 AM
To: Duchek, Michael
Subject: RE: UI work search

I would reach out to DWD directly.

From: Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>
Sent: Tuesday, November 27, 2018 8:28 AM
To: Fabick, Abbey <Abbey.Fabick@legis.wisconsin.gov>
Subject: RE: UI work search

OK. Can I chat with you and/or Janell to followup on how to do this?

-Mike

From: Fabick, Abbey <Abbey.Fabick@legis.wisconsin.gov>
Sent: Monday, November 26, 2018 5:46 PM
To: Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>
Subject: UI work search

Hi Michael,

Sorry about the delay in getting this to you. Here's some information on the what we'd like to have included in the draft we previously discussed. Again, essentially we want these three items below, currently in administrative code, to be put in statute. Let me know if you have any other questions.

Thank you,
Abbey Fabick

From: "Knutson, Janell - DWD" <Janell.Knutson@dwd.wisconsin.gov>
Date: November 26, 2018 at 4:47:34 PM CST
To: "Evenson, Andrew J - DWD" <AndrewJ.Evenson@dwd.wisconsin.gov>
Subject: language

- A. Statute does not specify conditions under which a claimant is waived from work search. Currently, waiver of work search is contained in the administrative code. There are various reasons work search is waived. One of them is a reasonable expectation of recall.

Waiver of work search requirements are currently contained in DWD § 127.02:

Waiver of work search requirements. The department shall waive a claimant's requirement to conduct at least 4 actions to search for suitable work if any of the following apply:

- (1) The claimant performs any work for his or her customary employer.
- (2) The claimant is currently laid off from employment with an employer but there is a reasonable expectation that the claimant will be returning to employment within a period of 8 weeks, which may be

extended an additional 4 weeks but may not exceed a total of 12 weeks. In determining whether the claimant has a reasonable expectation of reemployment by the employer, the department shall request the employer to verify the claimant's employment status. If the employer does not verify the claimant's employment status, the department may consider any of the following:

- (a) The history of layoffs and reemployments by the employer.
 - (b) Any information that the employer furnished to the individual concerning the claimant's anticipated reemployment date.
 - (c) Whether the claimant has recall rights with the employer under the terms of any applicable collective bargaining agreement.
- (3) The claimant has a reasonable expectation of starting employment with a new employer within 4 weeks and the employer has verified the anticipated starting date with the department. The waiver shall not exceed 4 weeks.
- (4) The claimant has been laid off from work and routinely obtains work through a union referral and all of the following apply:
- (a) The union is the primary method used by workers to obtain employment in the claimant's customary occupation.
 - (b) The union maintains a record of unemployed members, and the referral activities of these members, and allows the department to inspect such records.
 - (c) The union provides, upon the request of the department, any information regarding a claimant's registration with the union or any referrals for employment it has made to the claimant.
 - (d) Prospective employers of the claimant seldom place orders with the public employment office for jobs requiring occupational skills similar to those of the claimant.
 - (e) The claimant is registered for work with a union and satisfies the requirements of the union relating to job referral procedures, and maintains membership in good standing with the union.
 - (f) The union enters into an agreement with the department regarding the requirements of this subsection.
- (6) The claimant is summoned to serve as a prospective or impaneled juror.
- (7) The claimant is enrolled in and satisfactorily participating in a course of approved training under s. 108.04 (16), Stats., in a work share program under s. 108.062 (10m), Stats., or in a self-employment assistance program or another program that has been enacted by the Wisconsin or federal legislature and the program includes that claimants who participate in the program shall be waived by the department from work search requirements.
- (8) The claimant has not made a search for suitable work because of an error made by personnel of the department.
- (9) The claimant's most recent employer failed to post appropriate notice posters as to claiming unemployment benefits as required under s. DWD 120.01 and the claimant was not aware of the work search requirement.
- (11) The claimant has been referred for reemployment services, is participating in such services, or is not participating in such services, but has justifiable cause for failure to participate. Justifiable cause includes that the claimant is unable to participate due to any of the following:
- (a) The claimant is summoned to serve as a prospective or impaneled juror.
 - (b) The claimant is enrolled and satisfactorily participating in a course of training approved by the department, in a work share program under s. 108.062 (10m), Stats., or in a self-employment assistance program or another program that has been enacted by the Wisconsin or federal legislature and the program includes that claimants who participate in the program shall be waived by the department from work search requirements.
 - (c) The claimant is employed.
 - (d) The claimant is attending a job interview.
 - (e) Circumstances which the department determines are beyond the claimant's control.

- B. Similar to above, waiver from work registration (registering on Job Center of Wisconsin (JCW)) is contained in the code, not statute.

Waiver of work registration requirements are currently contained in DWD §126.03:

Waiver of work registration requirement. The department shall waive a claimant's work registration requirement for any given week if any of the following apply:

(2) The claimant is currently laid off from employment with an employer but the employer has verified with the department there is a reasonable expectation that the claimant will be returning to employment within a period of 8 weeks, which may be extended an additional 4 weeks but may not exceed a total of 12 weeks. If the employer does not verify the claimant's employment status, the department may consider any of the following:

(am) The history of layoffs and reemployments by the employer.

(bm) Any information that the employer furnished to the individual concerning the claimant's anticipated reemployment date.

(cm) Whether the claimant has recall rights with the employer under the terms of any applicable collective bargaining agreement.

(3) The claimant has a reasonable expectation of starting employment with a new employer within 4 weeks and the employer has verified the anticipated starting date with the department. The waiver shall not exceed 4 weeks.

(4) The claimant has been laid off from work and routinely obtains work through a union referral and all of the following apply:

(a) The union is the primary method used by workers to obtain employment in the claimant's customary occupation.

(b) The union maintains a record of unemployed members, and the referral activities of these members, and allows the department to inspect such records.

(c) The union provides, upon the request of the department, any information regarding a claimant's registration with the union or any referrals for employment it has made to the claimant.

(d) Prospective employers of the claimant seldom place orders with the public employment office for jobs requiring occupational skills similar to those of the claimant.

(e) The claimant is registered for work with a union and satisfies the requirements of the union relating to job referral procedures, and maintains membership in good standing with the union.

(f) The union enters into an agreement with the department regarding the requirements of this subsection.

(5) The claimant is summoned to serve as a prospective or impaneled juror.

(6) The claimant is enrolled in and satisfactorily participating in a course of approved training under s. 108.04 (16), Stats., in a work share program under s. 108.062 (10m), Stats., in a self-employment assistance program, or another program enacted by the Wisconsin or federal legislature and the program includes that claimants who participate in the program shall be waived by the department from work registration requirements.

(7) The claimant is unable to complete registration due to circumstances which the department determines are beyond the claimant's control.

- D. ***Currently, DWD §127.04(1) provides that upon request, a claimant shall provide verification of conducting at least 4 work search actions to the department by computer-based programs or other methods approved by the department. By policy, the department requires the claimant to provide their work search verification information when filing their online weekly claim. Before this policy was in place, claimants were only required to provide their work search verification during a re-employment services session or during a random audit, both after the week they were paid.***

Statutory language could codify this policy and provide:

A claimant shall provide verification of conducting at least 4 work search actions to the department when filing a weekly claim certification.



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-6058/12
MED:kjf

p2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT to renumber and amend 108.04 (2) (a) 3. (intro.); 108.04 (2) (a) 3. a. to
2 c. and 108.04 (2) (b) of the statutes; relating to: an exemption from work search
3 requirements for certain individuals claiming unemployment insurance
4 benefits and requiring the exercise of rule-making authority

Analysis by the Legislative Reference Bureau

Under current law, a claimant for unemployment insurance benefits is generally required to conduct searches for work each week to be eligible for unemployment benefits. Current law provides that a claimant who is laid off is exempt from the work search requirements if the claimant reasonably expects to be reemployed by the former employer and the Department of Workforce Development verifies that expectation. DWD may grant a claimant a waiver of the work search requirement under certain conditions. Administrative rules promulgated by DWD require DWD to grant a claimant a waiver of the work search requirements for eight weeks if the claimant reasonably expects to be reemployed with the claimant's employer within that period. The rules permit DWD to provide an additional four-week extension of that waiver. The rules also provide additional reasons a claimant may qualify for a waiver and require claimants for whom the requirements are not waived to provide verification of having complied with work search requirements.

Waivers contained in DWD's rules for work search and registration requirements and the requirement that a claimant provide verification of having complied with work search requirements.

and provides verification of that search to the department

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 108.04 (2) (a) 3. (intro.) of the statutes is renumbered 108.04 (2) (a)

2 3. and amended to read:

3 108.04 (2) (a) 3. The individual ^{claimant} conducts a reasonable search for suitable work

4 during that week, ~~unless the search requirement is waived under par. (b) or s.~~ ^{a claimant}

5 ~~108.062 (10m).~~ The search for suitable work must include at least 4 actions per week

6 that constitute a reasonable search as prescribed by rule of the department. In

7 addition, the department may, by rule, require ~~an individual~~ ^{claimant} to take more than 4

8 reasonable work search actions in any week. The department shall require a

9 uniform number of reasonable work search actions for similar types of claimants.

10 This subdivision does not apply to an individual if the department determines that

11 the individual is currently laid off from employment with an employer but there is

12 a reasonable expectation of reemployment of the individual by that employer. In

13 determining whether the individual has a reasonable expectation of reemployment

14 by an employer, the department shall request the employer to verify the individual's

15 employment status and shall also consider other factors, including:

16 SECTION 2. 108.04 (2) (a) 3. a. to c. of the statutes are renumbered 108.04 (2)

17 (b) 1. ^{a. to c.} ~~(to 3.)~~ and amended to read:

18 108.04 (2) (b) 1. ^{a.} The history of layoffs and reemployments by the employer;

19 ^{b.} 2. Any information that the employer furnished to the ~~individual~~ ^{claimant} or the

20 department concerning the ~~individual's~~ ^{claimant's} anticipated reemployment date; and

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alc.
3) Whether the *claimant* individual has recall rights with the employer under the terms of any applicable collective bargaining agreement; and. *g.l. 3-3*

SECTION 3. 108.04 (2) (b) of the statutes is renumbered 108.04 (2) (b) *g.l.* (intro.) and amended to read:

108.04 (2) (b) *g.l.* (intro.) The department shall prescribe the requirements for registration for work and search for work shall be prescribed by rule of the department, and the *g* department may, by general rule, waive these *g.l.* those requirements under certain stated conditions, except that the department shall, by rule, waive those requirements if the department determines that the individual is currently laid off from employment with an employer but there is a reasonable expectation of reemployment of the individual by that employer within a period of 8 weeks, which may be extended up to an additional 4 weeks but not to exceed a total of 12 weeks. In determining whether the individual has a reasonable expectation of reemployment by an employer, the department shall request the employer to verify the individual's employment status and shall also consider other factors, including all of the following: *e the*

(END)

2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-6058/P2ins
MED:...

INSERT 2-0

1 **SECTION 1.** 108.04 (2) (a) (intro.) of the statutes is amended to read:
2 108.04 (2) (a) (intro.) Except as provided in par. (b) and, sub. (16) (am) and (b),
3 and s. 108.062 (10) and (10m) and as otherwise expressly provided, a claimant is
4 eligible for benefits as to any given week only if all of the following apply:

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236; 2013 a. 11, 20, 36; 2013 a. 173 ss. 13, 33; 2013 a. 276; 2015 a. 55, 86, 195; 2015 a. 197 s. 51; 2015 a. 334; 2017 a. 157; 2017 a. 364 s. 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also chs. DWD 132 and 133, Wis. adm. code.

5 **SECTION 2.** 108.04 (2) (a) 1. of the statutes is amended to read:
6 108.04 (2) (a) 1. ~~Except as provided in s. 108.062 (10), the individual~~ The
7 claimant is able to work and available for work during that week;.

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236; 2013 a. 11, 20, 36; 2013 a. 173 ss. 13, 33; 2013 a. 276; 2015 a. 55, 86, 195; 2015 a. 197 s. 51; 2015 a. 334; 2017 a. 157; 2017 a. 364 s. 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also chs. DWD 132 and 133, Wis. adm. code.

8 **SECTION 3.** 108.04 (2) (a) 2. of the statutes is amended to read:
9 108.04 (2) (a) 2. ~~Except as provided in s. 108.062 (10m), as of that week, the~~
10 individual The claimant has registered for work as directed in the manner prescribed
11 by the department; by rule.

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236; 2013 a. 11, 20, 36; 2013 a. 173 ss. 13, 33; 2013 a. 276; 2015 a. 55, 86, 195; 2015 a. 197 s. 51; 2015 a. 334; 2017 a. 157; 2017 a. 364 s. 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also chs. DWD 132 and 133, Wis. adm. code.

****NOTE: I moved language allowing DWD to prescribe the requirements for registration for work by rule here from s. 108.04 (2) (b), which is reworked to just deal with the waivers.

INSERT 2-15

****NOTE: This codifies the requirement that a claimant provide DWD with verification of having performed the required work search actions each week. The language about individuals who are laid off is moved to par. (b) 1.

INSERT 3-3

12 **SECTION 4.** 108.04 (2) (b) of the statutes is renumbered 108.04 (2) (b) (intro.)
13 and amended to read:

(intro.)

1 108.04 (2) (b) ~~The requirements for registration for work and search for work~~
2 ~~shall be prescribed by rule of the department, and the department may by general~~
3 ~~rule department shall waive these the requirements under certain stated conditions.~~
4 par. (a) 2. and 3. if any of the following apply:

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236; 2013 a. 11, 20, 36; 2013 a. 173 ss. 13, 33; 2013 a. 276; 2015 a. 55, 86, 195; 2015 a. 197 s. 51; 2015 a. 334; 2017 a. 157; 2017 a. 364 s. 49; 2017 a. 366; s. 13.92 (2) (i).

****NOTE: This puts the work search waivers (including the one for people who are laid off and expect to be rehired) contained in the code in par. (b) and eliminates DWD's authority to create additional waivers by rule. OK?

Cross-reference: See also chs. DWD 132 and 133, Wis. adm. code.

(intro.) is

5 **SECTION 5.** 108.04 (2) (b) 1. to 5. of the statutes are created to read:

6 108.04 (2) (b) 1. (intro.) The department determines that the claimant is currently laid
7 off from employment with an employer but there is a reasonable expectation of
8 reemployment of the claimant by that employer within a period of 8 weeks, which
9 may be extended up to an additional 4 weeks but not to exceed a total of 12 weeks.
10 In determining whether the claimant has a reasonable expectation of reemployment
11 by an employer, the department shall request the employer to verify the claimant's
12 employment status and shall also consider other factors, including all of the
13 following:

14 2. The claimant has a reasonable expectation of starting employment with a
15 new employer within 4 weeks and the employer has verified the anticipated starting
16 date with the department. A waiver under this subdivision may not exceed 4 weeks.

17 3. The claimant has been laid off from work and routinely obtains work
18 through a labor union referral and all of the following apply:

19 a. The union is the primary method used by workers to obtain employment in
20 the claimant's customary occupation.

SECTION #. 108.04 (2) (b) 2. to §. 13.92

1 b. The union maintains a record of unemployed members and the referral
2 activities of these members, and the union allows the department to inspect such
3 records.

4 c. The union provides, upon the request of the department, any information
5 regarding a claimant's registration with the union or any referrals for employment
6 it has made to the claimant.

7 d. Prospective employers of the claimant seldom place orders with the public
8 employment office for jobs requiring occupational skills similar to those of the
9 claimant.

10 e. The claimant is registered for work with a union and satisfies the
11 requirements of the union relating to job referral procedures, and maintains
12 membership in good standing with the union.

13 f. The union enters into an agreement with the department regarding the
14 requirements of this subdivision.

15 (5) The claimant is summoned to serve as a prospective or impaneled juror.

16 (6) The requirements are waived under s. 108.04 (16) or s. 108.062 (10m), or the
17 claimant is enrolled in and satisfactorily participating in a self-employment
18 assistance program or another program established under state or federal law and
19 the program ^{e provides} includes that claimants who participate in the program shall be waived
20 by the department from work registration requirements.

21 (7) The claimant is unable to complete registration due to circumstances ^{that} which
22 the department determines are beyond the claimant's control.

23 **SECTION 6.** 108.04 (2) (bm) of the statutes is amended to read:

24 108.04 (2) (bm) A claimant is ineligible to receive benefits for any week for
25 which there is a determination that the claimant failed to conduct a reasonable

1 ~~search for suitable~~ comply with the registration for work and work and search
2 requirements under par. (a) 2. or 3. or failed to provide verification to the department
3 that the claimant complied with those requirements, unless the department has not
4 waived the ~~search requirement~~ those requirements under par. (b) or s. 108.062
5 (10m). If the department has paid benefits to a claimant for any such week, the
6 department may recover the overpayment under s. 108.22.

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236; 2013 a. 11, 20, 36; 2013 a. 173 ss. 13, 33; 2013 a. 276; 2015 a. 55, 86, 195; 2015 a. 197 s. 51; 2015 a. 334; 2017 a. 157; 2017 a. 364 s. 49; 2017 a. 366; s. 13.92 (2) (i).

Cross-reference: See also chs. DWD 132 and 133, Wis. adm. code.

STATE OF WISCONSIN – LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Talked to Janell - Need work search waivers as well,
draft only has registration ones

Need flexibility for federal guidance restrictions that
may come down



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-6058/~~PE~~^{P3}
MED:kjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Insert

1 **AN ACT** *to renumber and amend* 108.04 (2) (a) 3. (intro.), 108.04 (2) (a) 3. a. to
2 c. and 108.04 (2) (b); *to amend* 108.04 (2) (a) (intro.), 108.04 (2) (a) 1., 108.04
3 (2) (a) 2. and 108.04 (2) (bm); and *to create* 108.04 (2) (b) 1. (intro.) and 108.04
4 (2) (b) 2. to 7. of the statutes; **relating to:** waivers from work search and
5 registration requirements for certain individuals claiming unemployment
6 insurance benefits.

Analysis by the Legislative Reference Bureau

Under current law, a claimant for unemployment insurance benefits is generally required to conduct searches for work each week to be eligible for unemployment benefits and to register for work. Current law provides that a claimant who is laid off is exempt from these requirements if the claimant reasonably expects to be reemployed by the former employer and the Department of Workforce Development verifies that expectation. Administrative rules promulgated by DWD require DWD to grant a claimant a waiver of the work search and registration requirements for eight weeks if the claimant reasonably expects to be reemployed with the claimant's employer within that period and allow an additional four-week extension of that waiver. The rules also provide additional reasons a claimant may qualify for a waiver and require claimants for whom the requirements are not waived to provide verification of having complied with work search and registration requirements.

This bill codifies the current waivers contained in DWD's rules for work search and registration requirements and the requirement that a claimant provide verification of having complied with work search and registration requirements.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 108.04 (2) (a) (intro.) of the statutes is amended to read:

2 108.04 (2) (a) (intro.) Except as provided in ~~par. (b) and~~ ^{plain} sub. (16) (am) and (b),
3 and s. 108.062 (10) and (10m) and as otherwise expressly provided, a claimant is
4 eligible for benefits as to any given week only if all of the following apply:

5 SECTION 2. 108.04 (2) (a) 1. of the statutes is amended to read:

6 108.04 (2) (a) 1. ~~Except as provided in s. 108.062 (10),~~ the individual The
7 claimant is able to work and available for work during that week;

8 SECTION 3. 108.04 (2) (a) 2. of the statutes is amended to read:

9 108.04 (2) (a) 2. ~~Except as provided in s. 108.062 (10m),~~ as of that week, the
10 individual The claimant has registered for work as ~~directed in the manner prescribed~~
11 by the department; by rule.

****NOTE: I moved language allowing DWD to prescribe the requirements for registration for work by rule here from s. 108.04 (2) (b), which is reworked to just deal with the waivers.

12 SECTION 4. 108.04 (2) (a) 3. (intro.) of the statutes is renumbered 108.04 (2) (a)
13 3. and amended to read:

14 108.04 (2) (a) 3. The individual claimant conducts a reasonable search for
15 suitable work during that week, ~~unless the search requirement is waived under par.~~
16 ~~(b) or s. 108.062 (10m)~~ and provides verification of that search to the department.
17 The search for suitable work must include at least 4 actions per week that constitute
18 a reasonable search as prescribed by rule of the department. In addition, the

1 department may, by rule, require an individual a claimant to take more than 4
2 reasonable work search actions in any week. The department shall require a
3 uniform number of reasonable work search actions for similar types of claimants.
4 ~~This subdivision does not apply to an individual if the department determines that~~
5 ~~the individual is currently laid off from employment with an employer but there is~~
6 ~~a reasonable expectation of reemployment of the individual by that employer. In~~
7 ~~determining whether the individual has a reasonable expectation of reemployment~~
8 ~~by an employer, the department shall request the employer to verify the individual's~~
9 ~~employment status and shall also consider other factors, including:~~

***NOTE: This codifies the requirement that a claimant provide DWD with verification of having performed the required work search actions each week. The language about individuals who are laid off is moved to par. (b) 1.

10 **SECTION 5.** 108.04 (2) (a) 3. a. to c. of the statutes are renumbered 108.04 (2)
11 (b) 1. a. to c. and amended to read:

12 108.04 (2) (b) 1. a. The history of layoffs and reemployments by the employer;

13 b. Any information that the employer furnished to the individual claimant or
14 the department concerning the individual's claimant's anticipated reemployment
15 date; and

16 c. Whether the individual claimant has recall rights with the employer under
17 the terms of any applicable collective bargaining agreement; and

18 **SECTION 6.** 108.04 (2) (b) of the statutes is renumbered 108.04 (2) (b) (intro.)
19 and amended to read:

20 108.04 (2) (b) (intro.) The ~~requirements~~ ^{requirements} for registration for work and search for ^{registration for work} ~~work~~ ^{requirement}
21 shall be prescribed by rule of the department, and the department may by
22 general rule ~~shall~~ ^{shall} waive these ~~the requirements~~ ^{requirements} under certain stated conditions. par.
23 (a) 2. and 3. if any of the following apply: ^{applies}

***NOTE: This puts the work search waivers (including the one for people who are laid off and expect to be rehired) contained in the code in par. (b) and eliminates DWD's authority to create additional waivers by rule. OK?

1 **SECTION 7.** 108.04 (2) (b) 1. (intro.) of the statutes is created to read:

2 108.04 (2) (b) 1. (intro.) The department determines that the claimant is
3 currently laid off from employment with an employer but there is a reasonable
4 expectation of reemployment of the claimant by that employer within a period of 8
5 weeks, which may be extended up to an additional 4 weeks but not to exceed a total
6 of 12 weeks. In determining whether the claimant has a reasonable expectation of
7 reemployment by an employer, the department shall request the employer to verify
8 the claimant's employment status and shall also consider other factors, including all
9 of the following:

10 **SECTION 8.** 108.04 (2) (b) 2. to 6. of the statutes are created to read:

11 108.04 (2) (b) 2. The claimant has a reasonable expectation of starting
12 employment with a new employer within 4 weeks and the employer has verified the
13 anticipated starting date with the department. A waiver under this subdivision may
14 not exceed 4 weeks.

15 3. The claimant has been laid off from work and routinely obtains work
16 through a labor union referral and all of the following apply:

17 a. The union is the primary method used by workers to obtain employment in
18 the claimant's customary occupation.

19 b. The union maintains a record of unemployed members and the referral
20 activities of these members, and the union allows the department to inspect such
21 records.

1 c. The union provides, upon the request of the department, any information
2 regarding a claimant's registration with the union or any referrals for employment
3 it has made to the claimant.

4 d. Prospective employers of the claimant seldom place orders with the public
5 employment office for jobs requiring occupational skills similar to those of the
6 claimant.

7 e. The claimant is registered for work with a union and satisfies the
8 requirements of the union relating to job referral procedures, and maintains
9 membership in good standing with the union.

10 f. The union enters into an agreement with the department regarding the
11 requirements of this subdivision.

12 4. The claimant is summoned to serve as a prospective or impaneled juror.

13 5. The requirements are waived under s. 108.04 (16) or 108.062 (10m), or the
14 claimant is enrolled in and satisfactorily participating in a self-employment
15 assistance program or another program established under state or federal law and
16 the program provides that claimants who participate in the program shall be waived
17 by the department from work registration requirements.

18 6. The claimant is unable to complete registration due to circumstances that
19 the department determines are beyond the claimant's control.

20 **SECTION 9.** 108.04 (2) (bm) of the statutes is amended to read:

21 108.04 (2) (bm) A claimant is ineligible to receive benefits for any week for
22 which there is a determination that the claimant failed to ~~conduct a reasonable~~
23 ~~search for suitable~~ comply with the registration for work and work and search
24 requirements under par. (a) 2. or 3. or failed to provide verification to the department
25 that the claimant complied with those requirements, unless the department has not

SECTION 9

1 waived ~~the search requirement~~ those requirements under par. (b) ^{or (66)} or s. 108.062
2 (10m). If the department has paid benefits to a claimant for any such week, the
3 department may recover the overpayment under s. 108.22.

4 (END)

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-6058/P3ins
MED:...

INSERT

1 **SECTION 1.** 108.04 (2) (bb) of the statutes is created to read:

2 108.04 (2) (bb) The department shall waive the work search requirement under

3 par. (a) 3. if any of the following apply *applies*

4 1. A reason specified in par (b) 1., 2., 3., or 4.

5 2. The claimant performs any work for his or her customary employer.

6 3. The requirements are waived under s. 108.04 (16) or 108.062 (10m), or the
7 claimant is enrolled in and satisfactorily participating in a self-employment
8 assistance program or another program established under state or federal law and
9 the program provides that claimants who participate in the program shall be waived
10 by the department from work search requirements.

11 4. The claimant has not complied with the requirement because of an error
12 made by personnel of the department.

13 5. The claimant's most recent employer failed to post appropriate notice posters
14 as to claiming unemployment benefits as required by the department by rule, and
15 the claimant was not aware of the work search requirement.

16 6. The claimant has been referred for reemployment services, is participating
17 in such services, or is not participating in such services, but has good cause for failure
18 to participate. For purposes of this subdivision, a claimant has good cause if he or she
19 is unable to participate due to any of the following:

20 a. A reason specified in subd. 3. or par (b) 4.

21 b. The claimant is employed.

22 c. The claimant is attending a job interview.

- 1 d. Circumstances that the department determines are beyond the claimant's
- 2 control.



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-6058/P3
MED:kjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Stays / P3

1 AN ACT *to renumber and amend* 108.04 (2) (a) 3. (intro.), 108.04 (2) (a) 3. a. to
2 c. and 108.04 (2) (b); *to amend* 108.04 (2) (a) (intro.), 108.04 (2) (a) 1., 108.04
3 (2) (a) 2. and 108.04 (2) (bm); and *to create* 108.04 (2) (b) 1. (intro.), 108.04 (2)
4 (b) 2. to 6. and 108.04 (2) (bb) of the statutes; **relating to:** waivers from work
5 search and registration requirements for certain individuals claiming
6 unemployment insurance benefits. *and granting rule-making authority*

Analysis by the Legislative Reference Bureau

Under current law, a claimant for unemployment insurance benefits is generally required to conduct searches for work each week to be eligible for unemployment benefits and to register for work. Current law provides that a claimant who is laid off is exempt from these requirements if the claimant reasonably expects to be reemployed by the former employer and the Department of Workforce Development verifies that expectation. Administrative rules promulgated by DWD require DWD to grant a claimant a waiver of the work search and registration requirements for eight weeks if the claimant reasonably expects to be reemployed with the claimant's employer within that period and allow an additional four-week extension of that waiver. The rules also provide additional reasons a claimant may qualify for a waiver and require claimants for whom the requirements are not waived to provide verification of having complied with work search and registration requirements.

The bill allows DWD to modify or eliminate a waiver, or to create additional waivers, if doing so is necessary to comply with federal law.

This bill codifies the current waivers contained in DWD's rules for work search and registration requirements and the requirement that a claimant provide verification of having complied with work search and registration requirements.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

eliminates DWD's authority to establish waivers from work search and registration requirements and

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 108.04 (2) (a) (intro.) of the statutes is amended to read:

2 108.04 (2) (a) (intro.) Except as provided in par. pars. (b) and (bb) sub. (16) (am)

3 and (b), and s. 108.062 (10) and (10m) and as otherwise expressly provided, a
4 claimant is eligible for benefits as to any given week only if all of the following apply:

5 SECTION 2. 108.04 (2) (a) 1. of the statutes is amended to read:

6 108.04 (2) (a) 1. ~~Except as provided in s. 108.062 (10),~~ the individual The
7 claimant is able to work and available for work during that week;

8 SECTION 3. 108.04 (2) (a) 2. of the statutes is amended to read:

9 108.04 (2) (a) 2. ~~Except as provided in s. 108.062 (10m),~~ as of that week, the
10 individual The claimant has registered for work as directed in the manner prescribed
11 by the department; by rule.

12 SECTION 4. 108.04 (2) (a) 3. (intro.) of the statutes is renumbered 108.04 (2) (a)
13 3. and amended to read:

14 108.04 (2) (a) 3. The individual claimant conducts a reasonable search for
15 suitable work during that week, ~~unless the search requirement is waived under par.~~
16 ~~(b) or s. 108.062 (10m)~~ and provides verification of that search to the department.

17 The search for suitable work must include at least 4 actions per week that constitute
18 a reasonable search as prescribed by rule of the department. In addition, the
19 department may, by rule, require ~~an individual~~ a claimant to take more than 4

The bill also
codifies

and to (bd)

1 reasonable work search actions in any week. The department shall require a
2 uniform number of reasonable work search actions for similar types of claimants.
3 ~~This subdivision does not apply to an individual if the department determines that~~
4 ~~the individual is currently laid off from employment with an employer but there is~~
5 ~~a reasonable expectation of reemployment of the individual by that employer. In~~
6 ~~determining whether the individual has a reasonable expectation of reemployment~~
7 ~~by an employer, the department shall request the employer to verify the individual's~~
8 ~~employment status and shall also consider other factors, including:~~

9 SECTION 5. 108.04 (2) (a) 3. a. to c. of the statutes are renumbered 108.04 (2)
10 (b) 1. a. to c. and amended to read:

11 108.04 (2) (b) 1. a. The history of layoffs and reemployments by the employer;
12 b. Any information that the employer furnished to the individual claimant or
13 the department concerning the individual's claimant's anticipated reemployment
14 date; and,

15 c. Whether the individual claimant has recall rights with the employer under
16 the terms of any applicable collective bargaining agreement; and,

17 SECTION 6. 108.04 (2) (b) of the statutes is renumbered 108.04 (2) (b) (intro.)
18 and amended to read:

19 108.04 (2) (b) (intro.) ~~The requirements for registration for work and search for~~
20 ~~work shall be prescribed by rule of the department, and the department may by~~
21 ~~general rule shall~~ except as provided under par. (bd);
22 ~~under certain stated conditions. par. (a) 2. if any of the following applies:~~
waive these requirements the registration for work requirement

23 SECTION 7. 108.04 (2) (b) 1. (intro.) of the statutes is created to read:

24 108.04 (2) (b) 1. (intro.) The department determines that the claimant is
25 currently laid off from employment with an employer but there is a reasonable

1 expectation of reemployment of the claimant by that employer within a period of 8
2 weeks, which may be extended up to an additional 4 weeks but not to exceed a total
3 of 12 weeks. In determining whether the claimant has a reasonable expectation of
4 reemployment by an employer, the department shall request the employer to verify
5 the claimant's employment status and shall consider all of the following:

6 SECTION 8. 108.04 (2) (b) 2. to 6. of the statutes are created to read:

7 108.04 (2) (b) 2. The claimant has a reasonable expectation of starting
8 employment with a new employer within 4 weeks and the employer has verified the
9 anticipated starting date with the department. A waiver under this subdivision may
10 not exceed 4 weeks.

11 3. The claimant has been laid off from work and routinely obtains work through
12 a labor union referral and all of the following apply:

13 a. The union is the primary method used by workers to obtain employment in
14 the claimant's customary occupation.

15 b. The union maintains a record of unemployed members and the referral
16 activities of these members, and the union allows the department to inspect such
17 records. *e records*

18 c. The union provides, upon the request of the department, any information
19 regarding a claimant's registration with the union or any referrals for employment
20 it has made to the claimant. *e those*

21 d. Prospective employers of the claimant seldom place orders with the public
22 employment office for jobs requiring occupational skills similar to those of the
23 claimant.

1 e. The claimant is registered for work with a union and satisfies the
2 requirements of the union relating to job referral procedures, and maintains
3 membership in good standing with the union.

4 f. The union enters into an agreement with the department regarding the
5 requirements of this subdivision.

6 4. The claimant is summoned to serve as a prospective or impaneled juror.

7 5. The requirements are waived under s. 108.04 (16) or 108.062 (10m), or the
8 claimant is enrolled in and satisfactorily participating in a self-employment
9 assistance program or another program established under state or federal law and
10 the program provides that claimants who participate in the program shall be waived
11 by the department from work registration requirements.

12 6. The claimant is unable to complete registration due to circumstances that
13 the department determines are beyond the claimant's control.

14 **SECTION 9.** 108.04 (2) (bb) of the statutes is created to read:

15 108.04 (2) (bb) The department shall waive the work search requirement under ✓
16 par. (a) 3. if any of the following applies: *except as provided under par. (b) 3.*

17 1. A reason specified in par (b) 1., 2., 3., or 4.

18 2. The claimant performs any work for his or her customary employer.

19 3. The requirements are waived under s. 108.04 (16) or 108.062 (10m), or the
20 claimant is enrolled in and satisfactorily participating in a self-employment
21 assistance program or another program established under state or federal law and
22 the program provides that claimants who participate in the program shall be waived
23 by the department from work search requirements.

24 4. The claimant has not complied with the requirement because of an error
25 made by personnel of the department.

5. The claimant's most recent employer failed to post appropriate notice posters as to claiming unemployment benefits as required by the department by rule, and the claimant was not aware of the work search requirement.

6. The claimant has been referred for reemployment services, is participating in such services, or is not participating in such services, but has good cause for failure to participate. For purposes of this subdivision, a claimant has good cause if he or she is unable to participate due to any of the following:

- a. A reason specified in subd. 3. or par (b) 4.
- b. The claimant is employed.
- c. The claimant is attending a job interview.
- d. Circumstances that the department determines are beyond the claimant's control.

SECTION 10. 108.04 (2) (bm) of the statutes is amended to read:

108.04 (2) (bm) A claimant is ineligible to receive benefits for any week for which there is a determination that the claimant failed to ~~conduct a reasonable search for suitable~~ comply with the registration for work and work and search requirements under par. (a) 2. or 3. or failed to provide verification to the department that the claimant complied with those requirements, unless the department has not ~~waived the search requirement~~ those requirements under par. (b) or (bb) or s. 108.062 (10m). If the department has paid benefits to a claimant for any such week, the department may recover the overpayment under s. 108.22.

(END)

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-6058/P3ins
MED:...

INSERT

1 **SECTION 1.** 108.04 (2) (bd) of the statutes is created to read:
2 108.04 (2) (bd) The department may, by rule, modify the availability of any
3 waiver under par. (b) or (bb) if necessary to comply with a requirement under federal
4 law. The department may also, by rule, establish any additional waivers from the
5 requirements under par. (a) 2. and 3. if necessary to comply with a requirement
6 under federal law.

Duchek, Michael

From: Knutson, Janell - DWD
Sent: Thursday, November 29, 2018 9:22 AM
To: Duchek, Michael; Rubsam, Andrew J - DWD
Subject: RE: Proposed language

Looks good!

From: Duchek, Mike - LEGIS <michael.duchek@legis.wisconsin.gov>
Sent: Thursday, November 29, 2018 9:16 AM
To: Knutson, Janell - DWD <Janell.Knutson@dwd.wisconsin.gov>; Rubsam, Andrew J - DWD <Andrew.Rubsam@dwd.wisconsin.gov>
Subject: RE: Proposed language

See below

108.04 (2) (bd) The department may, by rule, do any of the following if doing so is necessary to comply with a requirement under federal law or is specifically allowed under federal law:

1. Modify the availability of any waiver under par. (b) or (bb)
2. Establish additional waivers from the requirements under par. (a) 2. and 3.

From: Knutson, Janell - DWD <Janell.Knutson@dwd.wisconsin.gov>
Sent: Wednesday, November 28, 2018 5:42 PM
To: Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>
Cc: Rubsam, Andrew J - DWD <Andrew.Rubsam@dwd.wisconsin.gov>
Subject: Re: Proposed language

Mike,

I am sorry but I did not see this before I left for the day for a personal appointment. Andy sent me a message that he talked to you. Can we call you courts thing in the morning?

Thanks,
Janell

Sent from my iPhone

On Nov 28, 2018, at 12:26 PM, Duchek, Mike - LEGIS <michael.duchek@legis.wisconsin.gov> wrote:

Let me know if this works:

108.04 (2) (bd) The department may, by rule, modify the availability of any waiver under par. (b) or (bb) if necessary to comply with a requirement under federal law. The department may also, by rule, establish any additional waivers from the requirements under par. (a) 2. and 3. if necessary to comply with a requirement under federal law.

Mike Duchek
Senior Legislative Attorney
Wisconsin Legislative Reference Bureau

(608) 504-5830



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-6058/P⁴
MED:kjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Insert

1 **AN ACT** *to renumber and amend* 108.04 (2) (a) 3. (intro.), 108.04 (2) (a) 3. a. to
2 c. and 108.04 (2) (b); *to amend* 108.04 (2) (a) (intro.), 108.04 (2) (a) 1., 108.04
3 (2) (a) 2. and 108.04 (2) (bm); and *to create* 108.04 (2) (b) 1. (intro.), 108.04 (2)
4 (b) 2. to 6., 108.04 (2) (bb) and 108.04 (2) (bd) of the statutes; **relating to:**
5 waivers from work search and registration requirements for certain
6 individuals claiming unemployment insurance benefits and granting
7 rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, a claimant for unemployment insurance benefits is generally required to conduct searches for work each week to be eligible for unemployment benefits and to register for work. Current law provides that a claimant who is laid off is exempt from these requirements if the claimant reasonably expects to be reemployed by the former employer and the Department of Workforce Development verifies that expectation. Administrative rules promulgated by DWD require DWD to grant a claimant a waiver of the work search and registration requirements for eight weeks if the claimant reasonably expects to be reemployed with the claimant's employer within that period and allow an additional four-week extension of that waiver. The rules also provide additional reasons a claimant may qualify for a waiver and require claimants for whom the requirements are not waived

However
to provide verification of having complied with work search and registration requirements.

This bill eliminates DWD's authority to establish waivers from work search and registration requirements and codifies the current waivers contained in DWD's rules. The bill also codifies the requirement that a claimant provide verification of having complied with work search and registration requirements.

The bill allows DWD to modify or eliminate a waiver, or to create additional waivers, if doing so is necessary to comply with federal law, or is specifically allowed under federal law.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 108.04 (2) (a) (intro.) of the statutes is amended to read:

2 108.04 (2) (a) (intro.) Except as provided in ~~par. pars.~~ (b) and ~~to (bd)~~, sub. (16)
3 (am) and (b), and s. 108.062 (10) and (10m) and as otherwise expressly provided, a
4 claimant is eligible for benefits as to any given week only if all of the following apply:

5 **SECTION 2.** 108.04 (2) (a) 1. of the statutes is amended to read:

6 108.04 (2) (a) 1. ~~Except as provided in s. 108.062 (10), the individual~~ The
7 claimant is able to work and available for work during that week;

8 **SECTION 3.** 108.04 (2) (a) 2. of the statutes is amended to read:

9 108.04 (2) (a) 2. ~~Except as provided in s. 108.062 (10m), as of that week, the~~
10 ~~individual~~ The claimant has registered for work as directed in the manner prescribed
11 by the department; by rule.

12 **SECTION 4.** 108.04 (2) (a) 3. (intro.) of the statutes is renumbered 108.04 (2) (a)
13 3. and amended to read:

14 108.04 (2) (a) 3. The ~~individual~~ claimant conducts a reasonable search for
15 suitable work during that week, ~~unless the search requirement is waived under par.~~
16 ~~(b) or s. 108.062 (10m)~~ and provides verification of that search to the department.
17 The search for suitable work must include at least 4 actions per week that constitute

1 a reasonable search as prescribed by rule of the department. In addition, the
2 department may, by rule, require ~~an individual~~ a claimant to take more than 4
3 reasonable work search actions in any week. The department shall require a
4 uniform number of reasonable work search actions for similar types of claimants.
5 ~~This subdivision does not apply to an individual if the department determines that~~
6 ~~the individual is currently laid off from employment with an employer but there is~~
7 ~~a reasonable expectation of reemployment of the individual by that employer. In~~
8 ~~determining whether the individual has a reasonable expectation of reemployment~~
9 ~~by an employer, the department shall request the employer to verify the individual's~~
10 ~~employment status and shall also consider other factors, including:~~

11 **SECTION 5.** 108.04 (2) (a) 3. a. to c. of the statutes are renumbered 108.04 (2)
12 (b) 1. a. to c. and amended to read:

13 108.04 (2) (b) 1. a. The history of layoffs and reemployments by the employer;
14 b. Any information that the employer furnished to the ~~individual~~ claimant or
15 the department concerning the ~~individual's~~ claimant's anticipated reemployment
16 date; and,

17 c. Whether the ~~individual~~ claimant has recall rights with the employer under
18 the terms of any applicable collective bargaining agreement; and,

19 **SECTION 6.** 108.04 (2) (b) of the statutes is renumbered 108.04 (2) (b) (intro.)
20 and amended to read:

21 108.04 (2) (b) (intro.) ~~The requirements for registration for work and search for~~
22 ~~work shall be prescribed by rule of the department, and the department may by~~
23 ~~general rule shall, except as provided under par. (bd), waive these requirements the~~
24 ~~registration for work requirement under certain stated conditions. par. (a) 2. if any~~
25 of the following applies:

1 **SECTION 7.** 108.04 (2) (b) 1. (intro.) of the statutes is created to read:

2 108.04 (2) (b) 1. (intro.) The department determines that the claimant is
3 currently laid off from employment with an employer but there is a reasonable
4 expectation of reemployment of the claimant by that employer within a period of 8
5 weeks, which may be extended up to an additional 4 weeks but not to exceed a total
6 of 12 weeks. In determining whether the claimant has a reasonable expectation of
7 reemployment by an employer, the department shall request the employer to verify
8 the claimant's employment status and shall consider all of the following:

9 **SECTION 8.** 108.04 (2) (b) 2. to 6. of the statutes are created to read:

10 108.04 (2) (b) 2. The claimant has a reasonable expectation of starting
11 employment with a new employer within 4 weeks and the employer has verified the
12 anticipated starting date with the department. A waiver under this subdivision may
13 not exceed 4 weeks.

14 3. The claimant has been laid off from work and routinely obtains work through
15 a labor union referral and all of the following apply:

16 a. The union is the primary method used by workers to obtain employment in
17 the claimant's customary occupation.

18 b. The union maintains records of unemployed members and the referral
19 activities of these members, and the union allows the department to inspect those
20 records.

21 c. The union provides, upon the request of the department, any information
22 regarding a claimant's registration with the union or any referrals for employment
23 it has made to the claimant.

1 d. Prospective employers of the claimant seldom place orders with the public
2 employment office for jobs requiring occupational skills similar to those of the
3 claimant.

4 e. The claimant is registered for work with a union and satisfies the
5 requirements of the union relating to job referral procedures, and maintains
6 membership in good standing with the union.

7 f. The union enters into an agreement with the department regarding the
8 requirements of this subdivision.

9 4. The claimant is summoned to serve as a prospective or impaneled juror.

10 5. The requirements are waived under s. 108.04 (16) or 108.062 (10m), or the
11 claimant is enrolled in and satisfactorily participating in a self-employment
12 assistance program or another program established under state or federal law and
13 the program provides that claimants who participate in the program shall be waived
14 by the department from work registration requirements.

15 6. The claimant is unable to complete registration due to circumstances that
16 the department determines are beyond the claimant's control.

17 **SECTION 9.** 108.04 (2) (bb) of the statutes is created to read:

18 108.04 (2) (bb) The department shall, except as provided under par. (bd), waive
19 the work search requirement under par. (a) 3. if any of the following applies:

20 1. A reason specified in par (b) 1., 2., 3., or 4.

21 2. The claimant performs any work for his or her customary employer.

22 3. The requirements are waived under s. 108.04 (16) or 108.062 (10m), or the
23 claimant is enrolled in and satisfactorily participating in a self-employment
24 assistance program or another program established under state or federal law and

1 the program provides that claimants who participate in the program shall be waived
2 by the department from work search requirements.

3 4. The claimant has not complied with the requirement because of an error
4 made by personnel of the department.

5 5. The claimant's most recent employer failed to post appropriate notice posters
6 as to claiming unemployment benefits as required by the department by rule, and
7 the claimant was not aware of the work search requirement.

8 6. The claimant has been referred for reemployment services, is participating
9 in such services, or is not participating in such services, but has good cause for failure
10 to participate. For purposes of this subdivision, a claimant has good cause if he or she
11 is unable to participate due to any of the following:

- 12 a. A reason specified in subd. 3. or par (b) 4.
13 b. The claimant is employed.
14 c. The claimant is attending a job interview.
15 d. Circumstances that the department determines are beyond the claimant's
16 control.

17 **SECTION 10.** 108.04 (2) (bd) of the statutes is created to read:

18 108.04 (2) (bd) *g Insert* The department may, by rule, modify the availability of any
19 waiver under par. (b) or (bb) if necessary to comply with a requirement under federal
20 law. The department may also, by rule, establish any additional waivers from the
21 requirements under par. (a) 2. and 3. if necessary to comply with a requirement
22 under federal law.

23 **SECTION 11.** 108.04 (2) (bm) of the statutes is amended to read:

24 108.04 (2) (bm) A claimant is ineligible to receive benefits for any week for
25 which there is a determination that the claimant failed to conduct a reasonable

1 search for suitable comply with the registration for work and work and search
2 requirements under par. (a) 2. or 3. or failed to provide verification to the department
3 that the claimant complied with those requirements, unless the department has not
4 waived the search requirement those requirements under par. (b), (bb), or (bd) or s.
5 108.062 (10m). If the department has paid benefits to a claimant for any such week,
6 the department may recover the overpayment under s. 108.22.

7 (END)

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-6058/P4ins
MED:...

INSERT

1 The department may, by rule, do any of the following if doing so is necessary to
2 comply with a requirement under federal law or is specifically allowed under federal
3 law:

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State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-6058/P4
MED:kjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber and amend* 108.04 (2) (a) 3. (intro.), 108.04 (2) (a) 3. a. to
2 c. and 108.04 (2) (b); *to amend* 108.04 (2) (a) (intro.), 108.04 (2) (a) 1., 108.04
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6 individuals claiming unemployment insurance benefits and granting
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Under current law, a claimant for unemployment insurance benefits is generally required to conduct searches for work each week to be eligible for unemployment benefits and to register for work. Current law provides that a claimant who is laid off is exempt from these requirements if the claimant reasonably expects to be reemployed by the former employer and the Department of Workforce Development verifies that expectation. Administrative rules promulgated by DWD require DWD to grant a claimant a waiver of the work search and registration requirements for eight weeks if the claimant reasonably expects to be reemployed with the claimant's employer within that period and allow an additional four-week extension of that waiver. The rules also provide additional reasons a claimant may qualify for a waiver and require claimants for whom the requirements are not waived

to provide verification of having complied with work search and registration requirements.

This bill eliminates DWD's authority to establish waivers from work search and registration requirements and codifies the current waivers contained in DWD's rules. However, the bill allows DWD to modify or eliminate a waiver, or to create additional waivers, if doing so is necessary to comply with federal law or is specifically allowed under federal law. The bill also codifies the requirement that a claimant provide verification of having complied with work search and registration requirements.

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6 the department may recover the overpayment under s. 108.22.

7 (END)